

North Coast Environment Council Inc v Minister for Resources (1994) 127 ALR 617

North Coast granted standing to represent environmental interests



Facts

The North Coast Environment Council (**the Applicant**) was an incorporated non-for-profit organisation who represented 44 smaller environmental organisations in the northern region of Australia.

The Minister for Resources (**Minister**) decided to grant Sawmillers Exports Pty Ltd a licence to export woodchips. The Applicant had consistently opposed the renewal of export woodchip licences on the basis that it believed no proper environmental impact statements had been provided to the Minister. The Applicant sought written reasons from the Minister for the decision regarding the renewal of the 3 month woodchip licence under s 13 of the *Administrative Decisions (Judicial Review) Act 1977* (Cth) (**ADJR Act**). Entitlement to those reasons under s 13 was however dependent on the Applicant demonstrating it was a 'person aggrieved' by the decision.

The Minister refused to give reasons because he did not accept that North Coast Environment Council was a 'person aggrieved' under the ADJR Act.

In the Federal Court, the Applicant sought a declaration that it was entitled to a statement of reason, arguing that it was a 'person aggrieved' due to the following factors:

- it had been recognised by the Commonwealth for several years as a significant conservation body,
- it was invited by the New South Wales government on a number of occasions to comment on various projects relating to the environment, and
- it had conducted various noteworthy projects in relation to pressing environmental matters.

Decision

Justice Sackville found that the Applicant showed it had a special interest in the subject matter of the litigation, and therefore was a 'person aggrieved' for the purposes of the ADJR Act.

Although Sackville J found that the Applicant was not conferred a private right to make a claim, it did have a public interest sufficient to satisfy the definition of a 'person aggrieved' in being a significant representative for environmental issues.

The Applicant was thereby entitled to request a statement of reasons for the Minister's decision to grant the renewal of the woodchip licence under s 13 of the ADJR Act.

Reasoning

Justice Sackville found that the following factors indicated the Applicant's ground for special interest:

- It was recognised as the peak environmental organisation in the region;
- Representatives of the Applicant regularly sat in on advisory committee meetings;
- Its aims and objects of association indicated a special interest in environmental conservation;
- It undertook substantial research and made submissions about woodchipping operations, forest management and other environmental matters; and
- It had a long history of co-ordinating environmental conservation projects.

The Court held that one of these factors alone would not confer a right to standing, however, cumulatively they indicated a closeness of relationship to the subject matter in question.

In assessing who would have the appropriate special interest in cases such as this, Sackville J commented at [44]:

"There is much to be said for the view that the focus of attention where decisions of public authorities are challenged or reasons for those decisions are sought should not be any benefit that might accrue to the plaintiff or the applicant. On this view, the focus should be on those 'who can represent the public interest (in litigation) most effectively and faithfully'"

The Minister argued that the Applicant's case should be distinguished from *ACF v Commonwealth*, because unlike the Australian Conservation Foundation which was granted national status, the Applicant merely had regional status. The Court however dismissed the Minister's argument. In being a regional body, the Applicant

had a better right to standing given its substantial regional focus on the licensing issue. Furthermore, the fact that the Applicant had a relatively low membership rate, number of staff and overall income, was not fatal to demonstrating it was a 'person aggrieved'.

Comments

This case widened the law of standing. The Court indicated that the standing rule should be applied more flexibly, allowing more individuals or organisations to fulfil the standing requirement when representing the interests of the public. If an individual or organisation can demonstrate that it is 'effective and faithful' in fulfilling a specific public purpose, then it appears it will hold a special interest in the relevant subject matter.

